

House Bill 651

By: Representatives Meadows of the 5<sup>th</sup>, Scott of the 153<sup>rd</sup>, Hamilton of the 23<sup>rd</sup>, Jones of the 46<sup>th</sup>, Burns of the 157<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to provide for a definition; to provide for the incorporation of townships; to provide for the requirements and methodology for such incorporations; to provide for annexations of such townships; to provide for the conversion of such townships into municipal corporations; to provide for certain taxing powers and other duties and powers of such townships; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by revising Code Section 36-30-1, relating to the meaning of terms "city," "town," "municipality," and "village," as follows:

"36-30-1.

Wherever the words 'city,' 'town,' 'municipality,' or 'village' appear in the statutory laws of this state, such words shall be construed as synonymous, and the General Assembly so declares this to be its intention in the use of these words; such words shall be held to mean a municipal corporation as defined by statutory law and judicial interpretation. The term 'township' shall mean municipality for the purposes of Article IX, Section II, Paragraph IV of the Georgia Constitution and the following provisions of state law:

(1) Article 5 of Chapter 9 of Title 34;

(2) Code Sections 36-30-2 through 36-30-7;

(3) Code Sections 36-34-1 through 36-34-3;

(4) Code Section 36-35-4;

(5) Chapters 36, 66, 66A, 67, 67A, and 85 of this title; and

(6) Chapter 5 of Title 47.

The term shall not otherwise be a synonym for 'city,' 'town,' 'municipality,' or 'village' except as otherwise provided in Article 2 of Chapter 31 of this title."

## SECTION 2.

Said title is further amended by designating Code Sections 36-31-1 through 36-31-12 as Article 1 and adding a new Article 2 to read as follows:

### "ARTICLE 2

36-31-30.

(a) Notwithstanding any provision of this chapter to the contrary, municipalities may be incorporated in accordance with this Code section without the requiring the proposed incorporation to meet the requirements contained in Code Sections 36-31-1 through 36-31-12. Such municipalities shall be known as the 'Township of \_\_\_\_\_.'

(b)(1) When located wholly or partially in a 'Metropolitan Statistical Area' as defined by the federal Office of Management and Budget, in order to be eligible for incorporation as a township under this article, a proposed township shall be at least 1,000 contiguous acres in size, contain a minimum of 1,000 parcels of property that qualify for homestead exemption, and have an average residential density of 200 persons per square mile for the total area. The area of the proposed township shall also be located at least one mile from the borders of an existing municipality within the same county.

(2) When not located wholly or partially in a 'Metropolitan Statistical Area' as defined by the federal Office of Management and Budget, in order to be eligible for incorporation as a township under this article, a proposed township shall be at least 1,000 contiguous acres in size, contain a minimum of 400 parcels of property that qualify for homestead exemption, and have an average residential density of 200 persons per square mile for the total area. The area of the proposed township shall also be located at least three miles from the borders of an existing municipality within the same county.

36-31-31.

(a) A petition for incorporation as a township shall be filed with the superior court of the county in which the township is primarily located. Such petition shall contain the signatures of not less than 10 percent of the electors residing in the area of the proposed township. The petition shall have attached to it a township charter which, at a minimum, shall state for the proposed township its name, its boundaries, the size of the township council, the powers of the mayor, the powers of the members of the township council, the terms of office for the mayor and township councilmembers, the requirements for a quorum

1 and for voting by the township council, and how often the township council shall meet.  
2 Included in or along with the petition shall be evidence that the proposed township meets  
3 the requirements of subsection (b) of Code Section 36-31-30.

4 (b) The judge shall determine the legal sufficiency of the petition and charter and shall  
5 determine if the signers are qualified electors eligible to sign the petition. The judge shall  
6 enter an order certifying the legal sufficiency or insufficiency of the petition and charter  
7 and shall determine if the signers are qualified electors eligible to sign the petition within  
8 30 days after the filing of the petition with the superior court. The sole grounds upon  
9 which legal sufficiency shall be determined shall be compliance with this article. If the  
10 requirements of subsection (b) of Code Section 36-31-30 and this Code section have been  
11 met, the judge's order shall require that a referendum on incorporation of the township be  
12 held within the boundaries of the proposed township on the next general or special election  
13 date at least 45 days after the order is entered. If incorporation of the township is approved  
14 at such referendum, the election of the initial members of the governing authority of the  
15 township shall be held at the next general or special election date at least 45 days after the  
16 township referendum. All elections shall be held and conducted in accordance with  
17 Chapter 2 of Title 21, the 'Georgia Election Code,' and shall be conducted on a nonpartisan  
18 basis. After the election of the initial township officials, all township general elections  
19 shall be held on the Tuesday after the first Monday in November in odd-numbered years.

20 (c) The ballot for the township referendum shall have written or printed thereon the words:

21 '( ) YES Shall the incorporation of the Township of \_\_\_\_\_ in accordance with the  
22 township charter attached to the petition certified by the superior court be  
23 ( ) NO approved?'

24 All persons desiring to vote for approval of the incorporation shall vote 'Yes,' and those  
25 persons desiring to vote for rejection of the incorporation shall vote 'No.' If more than  
26 one-half of the votes cast on such question are for approval of the incorporation, the  
27 township shall be deemed incorporated as of the date of the referendum. The expense of  
28 such election and the initial election of members of the township governing authority shall  
29 be borne by the county in which the township is primarily located. It shall be the duty of  
30 the county election superintendent to hold and conduct such elections. It shall be his or her  
31 further duty to certify the result thereof to the Secretary of State and, if incorporation is  
32 approved at the election, to send the township charter to the Secretary of State and the  
33 Attorney General.

34 (d) When a township is created as authorized by this article, the Attorney General shall be  
35 responsible for seeking any and all preclearances required in connection with such  
36 incorporation under the federal Voting Rights Act of 1965, as amended, until such time as

1 the township notifies the Attorney General that it has the ability to seek any further  
2 preclearances that are required.

3 (e) The filing of a petition for incorporation as a township shall preclude the filing of any  
4 other petition for incorporation as a township including within its boundaries all or part of  
5 the area included within the incorporation petition filed first in time with the superior court.  
6 Such subsequent petition for incorporation as a township may be filed with the superior  
7 court no earlier than 60 days after the date of a previous failed incorporation referendum.

8 36-31-32.

9 (a) Townships incorporated pursuant to this article are authorized to levy up to .5 mill in  
10 ad valorem property taxes for the exercise of the township's limited powers. The property  
11 taxes levied by the township shall be billed and collected with the county ad valorem taxes,  
12 and the tax proceeds shall be remitted to the township no later than 30 days after receipt  
13 by the tax commissioner. Except as set forth in this article, townships shall not otherwise  
14 have the powers of municipalities incorporated under Article 1 of this chapter.

15 (b) Municipal corporations incorporated as townships pursuant to this article shall adopt  
16 and enforce ordinances which meet or exceed the development standards of the county with  
17 respect to trees, landscape or stream buffers, and the regulation of land-disturbing activity  
18 as defined in Code Section 12-7-3.

19 (c) Notwithstanding the provisions of Code Section 36-70-28, any municipal corporation  
20 incorporated as a township pursuant to this article shall be subject to the service delivery  
21 strategy in place at the time of incorporation. In the event that the municipal corporation  
22 meets the requirements of an 'affected municipality' at the time of a subsequent negotiation  
23 of the service delivery strategy pursuant to the provisions of Article 2 of Chapter 70 of  
24 Title 36, such municipal corporation shall be entitled to participate in the approval process  
25 of such strategy.

26 (d) In the event that part or all of the geographic area incorporated as a township pursuant  
27 to this article comprises part or all of a special service district or special tax district of a  
28 county, such geographic area shall remain subject to the special service district or special  
29 tax district unless otherwise agreed by the governing authority of the county and the  
30 governing authority of the township.

31 (e) Except as specifically provided in this article, the area of a township shall be subject  
32 to the governing authority of the county in the same manner as the unincorporated area of  
33 the county.

1 36-31-33.

2 (a) By resolution of the township governing authority, a township that is within a  
3 contiguous area to another township or municipality may apply for annexation of all or part  
4 of the township to such township or municipality. For purposes of this Code section, the  
5 term 'contiguous area' shall be as defined in Code Section 36-36-20. Within 90 days of the  
6 receipt of the resolution from the township petitioning for annexation, the municipality or  
7 township receiving such petition shall adopt a resolution approving or denying the  
8 annexation. If the municipality or township receiving the petition approves the annexation,  
9 the election superintendent shall conduct a referendum on the proposed annexation on the  
10 next general or special election date at least 45 days after the receiving municipality or  
11 township approves of such petition. Only those persons registered to vote for members of  
12 the General Assembly residing, on the date of the adoption of the resolution, in the  
13 proposed area to be annexed shall vote in the referendum. If a majority of those voting  
14 vote in favor of annexation, the area shall become a part of the corporate limits of the  
15 municipality or township. If a majority of those voting vote against the annexation, a  
16 period of two years must elapse before the township governing authority may petition for  
17 annexation of the same area to the same municipality or township.

18 (b) Any area within a township may also be annexed into a municipality in accordance  
19 with the procedures in Chapter 36 of Title 36.

20 36-31-34.

21 (a) At any time after incorporation as a township under this article, the township may be  
22 granted by local Act of the General Assembly a new municipal charter as a city or town,  
23 which charter shall vest such municipal corporation with all powers of municipal  
24 corporations otherwise incorporated as cities or towns.

25 (b) Every local law granting an original municipal charter to a township pursuant to this  
26 Code section shall have attached thereto a certificate by the author of the bill that the  
27 requirements of this Code section have been met, and such certificate shall be a permanent  
28 part of the charter and shall constitute conclusive evidence that such requirements have  
29 been met.

30 (c)(1) After two years as an incorporated township under this article, the governing  
31 authority of a township may petition the superior court for a municipal charter as a city  
32 or town, which charter shall vest such municipal corporation with all powers of municipal  
33 corporations otherwise incorporated as cities or towns. In the alternative, such petition  
34 for a municipal charter may be filed with the superior court by a petition containing the  
35 signatures of not less than 10 percent of the electors residing in the township. In either  
36 case, the petition shall have attached to it a municipal charter which, at a minimum, shall

1 state for the municipality its name, its boundaries, the size of the city council, the powers  
2 of the mayor, the powers of the members of the city council, the terms of office for the  
3 mayor and city councilmembers, the requirements for a quorum and for voting by the city  
4 council, and how often the city council shall meet.

5 (2) The judge shall determine the legal sufficiency of the petition and charter and shall  
6 determine if the signers are qualified electors eligible to sign the petition. The judge shall  
7 enter an order certifying the legal sufficiency or insufficiency of the petition and charter  
8 and shall determine if the signers are qualified electors eligible to sign the petition within  
9 30 days after the filing of the petition with the superior court. If the requirements of this  
10 Code section have been met, the judge's order shall require that a referendum on  
11 incorporation of the township as a city or town be held on the next general or special  
12 election date at least 45 days after the order is entered. If incorporation of the township  
13 as a city or town is approved at such referendum, the election of the initial members of  
14 the governing authority of the city or town shall be held at the next general or special  
15 election date following the expiration of the term of office for each elected member of  
16 the township governing authority.

17 (d) The ballot for the city or town incorporation referendum shall have written or printed  
18 thereon the words:

19 '( ) YES Shall the incorporation of the City/Town of \_\_\_\_\_ in accordance with  
20 the municipal charter attached to the petition certified by the superior court  
21 ( ) NO be approved?'

22 All persons desiring to vote for approval of the incorporation shall vote 'Yes,' and those  
23 persons desiring to vote for rejection of the incorporation shall vote 'No.' If more than  
24 one-half of the votes cast on such question are for approval of the incorporation, the area  
25 of the township shall be deemed incorporated as a city or town as of the date of the  
26 referendum. The expense of such election and the initial election of members of the city  
27 or town governing authority shall be borne by the county in which the new city or town is  
28 primarily located. It shall be the duty of the county election superintendent to hold and  
29 conduct such elections. It shall be his or her further duty to certify the result thereof to the  
30 Secretary of State and, if incorporation is approved at the election, to send the municipal  
31 charter to the Secretary of State and the Attorney General.

32 (e) When a township is incorporated as a city or town as authorized by this Code section,  
33 the Attorney General shall be responsible for seeking any and all preclearances required  
34 in connection with such incorporation under the federal Voting Rights Act of 1965, as  
35 amended, until such time as the city or town notifies the Attorney General that it has the  
36 ability to seek any further preclearances required.

(f) The filing of a petition for incorporation as a city or town shall preclude the filing of any other petition for incorporation as a city or town including within its boundaries all or part of the area included within the incorporation petition filed first in time with the superior court. Such subsequent petition for incorporation as a city or town may be filed with the superior court no earlier than 60 days after the date of the previous failed incorporation referendum.

(g) No municipal corporation incorporated as a city or town in accordance with the requirements contained in Article 1 of this chapter shall utilize the provisions of Article 2 of this chapter to incorporate as a township or otherwise alter its charter to become a township."

### **SECTION 3.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

### **SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.